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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MAI, LANNA

ART UNIT PAPER NUMBER

3637

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,500

Applicant(s)

NELSON, THOMAS JOHN

Examiner

Lanna Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/16/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-58, 63, 68 and 70-78 is/are pending in the application.
- 4a) Of the above claim(s) 63, 70-73 and 78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55-58, 68, 74-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 55-58, 68, 74-77 are rejected under 35 U.S.C. 102 (b) as being anticipated by Swedish publication SE 8202 375-5.

Swedish publication shows in fig. 2 an elongated connector/track having a base (3), projection (5) extending vertically from the base to a first height and consists of identical right and left halves (5, 5) which are capable of being inserted into the recesses of flooring panels as shown in fig. 1. The top portion of each half includes identical extensions wherein the combined width of the extensions is less than the width of the base. The extensions include at least one angled portion (12) obliquely sloped. The projection extends the entire length of the connector as shown in fig. 1. Two protrusions (11) extend vertically from the base to a second height, which is substantially smaller than the first height, and extend the entire length of the connector as shown in fig. 1. The protrusions spaced apart from the projection, and being located on either side of the projection beyond the lateral extent of the extensions. The protrusions each include a first tapered surface (15) and a second tapered surface (14) extending outwardly from a top portion of the protrusions. The protrusions are capable of fitting within the channels formed in the bottom surface of the flooring panels such as being shown in figs. 1 and 3. The first tapered surfaces (15) faces away from the

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projection (5) and extends at a first oblique angle relative to the base plane. The second tapered surface (14) faces the projection and extends at a second oblique angle relative to the base plane. The first angle is clearly less than the second angle; see attached enlarged fig. 2. The flooring panels are not given any patentable weight because they are merely intended uses as they are not positively claimed.

Arguendo, assume that the protrusions of the Swedish publication do not show both tapered surfaces. Claims 55-58, 68, and 74-77 can be alternatively rejected as follows:

Claims 55-58, 68, and 74-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swedish publication as applied above, and further in view of EPO publication 1,024,234 or its German equivalent 297 10 175 (cited by applicant). The Swedish publication does not show the first angle being less than the second angle of the tapered surfaces. EPO publication '234 or the German publication '175 shows a panel (1) in figs. 5-7 having a connector (30) having protrusions (34, 39, 41) having tapered surfaces (39 and 41 in fig. 5 or 39 and 34 in fig. 6) both extend at oblique angles relative to the base plane to provide better support and better mating surfaces to the panels (1). The first tapered surface 41 in fig. 5 or 34 in fig. 6) faces away from the projection (42) and extends at a first oblique angle relative to the base plane (7). The second tapered surface (39) faces the projection (42) and extends at a second oblique angle relative to the base plane (7). The first angle is clearly less than the second angle. Therefore, it would have been obvious to one skilled in the art to modify the

connector of the Swedish publication to include protrusions with a first and a second tapered surfaces extending at oblique angles as taught by EPO publication '234 or the German publication '175 to provide better support and better mating surfaces to the flooring panels.

Applicant's arguments filed 7/15/2004 with respect to claim 55-58, 68, 74-77 have been fully considered but they are not persuasive. Contrary to applicant's argument, the Swedish patent does disclose first (15) and second (14) tapered surfaces, and first and second oblique angles as shown in fig. 2 where the first angle is less than the second angle. Note the enlarged fig. 2 attached herein. The Swedish publication alone or in combination with the EPO publication '234 or the German publication '175 met all the claimed limitations recited in claims 55-58, 68, 74-77 including the oblique angles such that the first angle is less than the second angle.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lanna Mai whose telephone number is (703) 308-2486. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.

As of April 1, 2005, the examiner will be moving to a new office in Alexandria, Virginia. She can be reached at the new telephone number 571-272-6867. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to TC3600's general inquiry number 571-272-3600.

Lm

3-18-05

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



